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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,331	10/10/2003	Timothy M. Garrison	3356-148	9249
24256	7590	02/27/2006	EXAMINER	
DINSMORE & SHOHL, LLP 1900 CHEMED CENTER 255 EAST FIFTH STREET CINCINNATI, OH 45202				KEASEL, ERIC S
		ART UNIT		PAPER NUMBER
		3754		

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D

Office Action Summary	Application No.	Applicant(s)	
	10/684,331	GARRISON ET AL.	
	Examiner	Art Unit	
	Eric Keasel	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 December 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 and 64-68 is/are pending in the application.
 4a) Of the above claim(s) 30-33 and 64-68 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-8,13-19,21 and 26-29 is/are rejected.
 7) Claim(s) 9-12,20 and 22-25 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 10 Oct 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Election/Restrictions

1. Claims 30-33 and 64-68 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and/or species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on May 16, 2005.

2. This application contains claims 30-33 and 64-68 drawn to an invention nonelected with traverse in the reply filed on May 16, 2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Howell (US Patent Number 2,004,203).

Howell discloses a spout assembly for dispensing liquid from a nozzle, comprising: a) a structural conduit including: i) a first end portion (i.e. the upstream portion) for attaching relative to a nozzle body and a second end portion (i.e. the downstream portion) for dispensing liquid; ii) an interior passage providing an internal flow path from the first end portion (in the area near cross-section 3 shown in Fig. 1) to the second end portion; and iii) at least one internal sidewall, the internal sidewall including a first sidewall portion with a first cross-sectional dimension (in the area near cross-section 3 shown in Fig. 1), a second sidewall portion (in the narrow section of 27) with a second cross-sectional dimension that is smaller than the first cross-sectional dimension, and a transition location (the tapered portion towards the top of 27) between the first and second sidewall portions, wherein the transition location provides for the change in cross-sectional dimensions between the first sidewall portion and the second sidewall portion, the first sidewall portion includes a length at least partially defining a substantially straight liquid flow path, wherein the substantially straight liquid flow path extends through the transition location without the transition location changing the substantially straight liquid flow path; wherein the first and second sidewall portions each have a substantially circular cross-sectional shape wherein the first and second cross-sectional dimensions comprise respective diameters of the first and second sidewall portions; wherein the transition location comprises a third sidewall portion of the internal sidewall that further defines the substantially straight liquid flow path; wherein the first and third sidewall portions each have a substantially circular cross-sectional shape; wherein the substantially circular cross-sectional shape of the first sidewall portion

defines a diameter and wherein successive cross sections of the third sidewall portion along the substantially straight liquid flow path define a plurality of substantially circular cross-sectional shapes defining a plurality of successively smaller diameters; wherein a lower portion of each of the cross-sectional shapes of the first and third sidewall portions at least partially define the substantially straight liquid flow path; and wherein the second sidewall portion of the interior sidewall includes a substantially straight portion and an angular portion, wherein the angular portion provides an angular orientation between the first sidewall portion and the substantially straight portion of the second sidewall portion.

6. Claims 1-8, 13-19, 21, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Garrison et al. (US Patent Number 6,024,140).

Garrison et al. disclose a spout assembly (see the embodiment of Figs. 7 and 8) for dispensing liquid from a nozzle, comprising: a) a structural conduit including: i) a first end portion (i.e. the portion upstream of the tapered transition portion) for attaching relative to a nozzle body and a second end portion (i.e. the downstream portion) for dispensing liquid; ii) an interior passage providing an internal flow path from the first end portion to the second end portion; and iii) at least one internal sidewall, the internal sidewall including a first sidewall portion with a first cross-sectional dimension, a second sidewall portion (near leader line 148) with a second cross-sectional dimension that is smaller than the first cross-sectional dimension, and a transition location (the tapered portion) between the first and second sidewall portions, wherein the transition location provides for the change in cross-sectional dimensions between the first sidewall portion and the second sidewall portion, the first sidewall portion includes a length

at least partially defining a substantially straight liquid flow path, wherein the substantially straight liquid flow path extends through the transition location without the transition location changing the substantially straight liquid flow path; wherein the first and second sidewall portions each have a substantially circular cross-sectional shape wherein the first and second cross-sectional dimensions comprise respective diameters of the first and second sidewall portions; wherein the transition location comprises a third sidewall portion of the internal sidewall that further defines the substantially straight liquid flow path; wherein the first and third sidewall portions each have a substantially circular cross-sectional shape; wherein the substantially circular cross-sectional shape of the first sidewall portion defines a diameter and wherein successive cross sections of the third sidewall portion along the substantially straight liquid flow path define a plurality of substantially circular cross-sectional shapes defining a plurality of successively smaller diameters; wherein a lower portion of each of the cross-sectional shapes of the first and third sidewall portions at least partially define the substantially straight liquid flow path; wherein the second sidewall portion of the interior sidewall includes a substantially straight portion and an angular portion, wherein the angular portion provides an angular orientation between the first sidewall portion and the substantially straight portion of the second sidewall portion; and further comprising a spout adapter mounted with respect to the first end portion of the structural conduit, the spout adapter including a pressure activated control valve (158) adapted to permit flow of liquid into the spout assembly from a nozzle at a predetermined liquid pressure.

7. Claims 1-8, 13-19, 21, and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Butterfield et al. (US Patent Number 5,549,132).

Butterfield et al. disclose a spout assembly for dispensing liquid from a nozzle, comprising: a) a structural conduit including: i) a first end portion (i.e. the portion upstream of the tapered transition portion) for attaching relative to a nozzle body and a second end portion (i.e. the downstream portion) for dispensing liquid; ii) an interior passage providing an internal flow path from the first end portion to the second end portion; and iii) at least one internal sidewall, the internal sidewall including a first sidewall portion with a first cross-sectional dimension, a second sidewall portion with a second cross-sectional dimension that is smaller than the first cross-sectional dimension, and a transition location (the tapered portion) between the first and second sidewall portions, wherein the transition location provides for the change in cross-sectional dimensions between the first sidewall portion and the second sidewall portion, the first sidewall portion includes a length at least partially defining a substantially straight liquid flow path, wherein the substantially straight liquid flow path extends through the transition location without the transition location changing the substantially straight liquid flow path; wherein the first and second sidewall portions each have a substantially circular cross-sectional shape wherein the first and second cross-sectional dimensions comprise respective diameters of the first and second sidewall portions; wherein the transition location comprises a third sidewall portion of the internal sidewall that further defines the substantially straight liquid flow path; wherein the first and third sidewall portions each have a substantially circular cross-sectional shape; wherein the substantially circular cross-sectional shape of the first sidewall portion defines a diameter and wherein successive cross sections of the third sidewall portion along the

substantially straight liquid flow path define a plurality of substantially circular cross-sectional shapes defining a plurality of successively smaller diameters; wherein a lower portion of each of the cross-sectional shapes of the first and third sidewall portions at least partially define the substantially straight liquid flow path; wherein the second sidewall portion of the interior sidewall includes a substantially straight portion and an angular portion, wherein the angular portion provides an angular orientation between the first sidewall portion and the substantially straight portion of the second sidewall portion; and further comprising a spout adapter mounted with respect to the first end portion of the structural conduit, the spout adapter including a pressure activated control valve (82) adapted to permit flow of liquid into the spout assembly from a nozzle at a predetermined liquid pressure.

Allowable Subject Matter

8. Claims 9-12, 20, and 22-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed December 2, 2005 have been fully considered but they are not persuasive.

Applicant argues that none of the references disclose a substantially straight liquid flow path that is at least partially defined by the first sidewall portion and which extends through the transition location with the transition location not substantially changing the substantially

straight flow path. The examiner disagrees. Each of the reference clearly discloses such an arrangement and the rejections point out the structure that corresponds to these limitations.

Regarding claim 15, applicant argues that there is no discussion of pooling so the references do not disclose the internal sidewall “adapted to” substantially prevent pooling. It is noted that these references clearly meet any positively recited limitation. Therefore, the references are “adapted to” prevent pooling in the same manner as applicant’s claimed invention. If there is a feature that is required to prevent this pooling. Applicant should have identified this feature and claimed it.

Applicant argues that there is no asymmetry to the taper and no portion that can be characterized by flattened. The examiner disagrees. These are broad recitations that the references meet.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (571) 272-4929. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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